

Video Relay Service Policy On Blocking of Consumer Access to Competitors

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Lack of Interoperability Violates the Communications Act

- Section 201 was designed to establish a seamless communications network.
- Section 226 prohibits blocking of competitors by operator services companies
- Section 256 sets forth a policy favoring interoperability of the telephone network

Blocking Consumer Access to Competitors Is An Even More Egregious Violation of the Act and FCC Policy

- Blocking competitors directly violates the *Madison River* decision.
- When done by the dominant carrier it is plainly an attempt to monopolize the VRS market.
- Blocking stimulates competitors to concoct similar blocking schemes which balkanize the network.
- Blocking is contrary to the concept of equal access and availability of dial around.

Blocking Access Violates Section 201 of the Act

- Section 201 establishes a policy in favor of interconnection of carrier facilities. Blocking access to a competitor violates this policy just as if AT&T blocked access to MCI or Sprint.
- Blocking consumer access to competitors is thus an unreasonable practice under Section 201.

Blocking Access to Competitors Is Contrary to the Public Interest

- Blocking threatens consumer welfare in an emergency or urgent situation.
- Sorenson claims an interpreter shortage exists. If so, this compels the conclusion that VRS users should have access to all available VRS services to reduce wait times and help prevent a situation of potential loss of life or property resulting from Sorenson's network being full.

The VOIP 911 Order Supports A Ban on Blocking Consumer Access to Competitors

- The *VOIP 911* order recognizes that consumers who use the Internet for their phone service need unimpeded access to emergency call centers.
- Where consumers are blocked from using alternative telecom providers by a provider, their access to 911 service is likewise denied, especially when the dominant provider's access speed is slower than its competitors.

Blocking Is An Unreasonable Practice in Violation of Section 201

- Blocking endangers the deaf and hard of hearing public.
- Providers should not be able to leverage equipment distribution to achieve market dominance.
- The record in this proceeding shows the public overwhelmingly supports ending the block on accessing competitors' systems.

Sorenson's Arguments For Allowing It to Block Consumer Access to Competitors are Makeweight

- Sorenson does not need the block to compete effectively.
- Sorenson does not need the block to recoup its video phone investment.
- Allowing the blocking of consumer access to competitors does not promote innovation in VRS service.

Sorenson Does Not Need the Block to Compete Effectively

- Sorenson is the dominant VRS provider with more than two-thirds of the VRS market.
- Sorenson's offers a quality VRS service comparable with the other seven VRS providers.
- Sorenson does not need the artificial competitive restraint of a consumer block to effectively compete with other providers.

Sorenson Does Not Need the Block to Recoup Its Video Phone Investment

- Sorenson designed and built its video phone prior to even considering entry into VRS.
- Sorenson's VP-100 is merely a modified dLink Eye2I video phone.
- The VP-100 modifications took less than six months to effect.
- Sorenson's investment in the VP-100 development is thus minor compared to its investment in the non-blocked dLink.

Sorenson Designed and Built Its Video Phone Prior to Even Considering Entry Into VRS

- The dLink was already built in July of 2002 when Sorenson decided to enter VRS.
- Sorenson modified the dLink to the VP-100 device so that it could impose the consumer block for the very reason of locking persons into using its system not so that it could recoup its investment in the VP-100.
- Sorenson's actual investment in the VP-100 design – about six months of software engineering -- is minimal compared to its investment in the unblocked dLink sold on the open market.

Sorenson Has More Than Recouped Its Costs of the VP-100

- Sorenson has accumulated some 14 million minutes of VRS use so far this year.
- Sorenson's cost of VRS including an 11.25 percent rate of return on investment is \$5.347.
- Sorenson is receiving \$6.644 per VRS minute.
- Sorenson has thus received this year more than \$18 million in excess of its reasonable costs due in large part because of the artificial demand created by its block.
- Sorenson has undoubtedly recouped its investment in the VP-100.

Allowing Blocking of Consumer Access to Competitors Encourages Similar Schemes

- HOVRS now blocks access to competitors over broadband service it provides VRS consumers.
- HOVRS has acted out of competitive necessity to prevent loss of market share.
- HOVRS believes all blocking of consumer access to competitors should be prohibited.
- HOVRS does not block video-phones supplied by competitors as incorrectly reported by CSD.
- Other providers will undoubtedly do the same and balkanize the VRS market. Consumers will suffer.

The Commission Has A Lawful Way to Encourage VRS Innovation

- Reasonable research and Development costs should be allowed as a VRS rate element.
- Prudent R&D costs are an accepted element of utility rate design.
- Prudent R&D costs are those directed at improving the functionality of VRS and which are reasonable under all the circumstances.

The Commission Can and Should Allow Providers to Expense the Reasonable Cost of Equipment Distribution as an Outreach Expense

- Deaf and hard of hearing persons are penalized by having to employ expensive broadband service and video equipment to make and receive telephone calls.
- Thus, the deaf and hard of hearing are immediately denied functional equivalence where they seek to communicate in their natural visual language.
- Expensing equipment distribution from the TRS Fund would thus contribute to functional equivalence vis-à-vis the cost of VRS service to consumers.

The Role of Patent Rights

- VRS providers who create innovative inventions enjoy patent rights in their inventions and can thus license their use by other providers in order to recoup their investment.
- Imposition of a consumer block of access to competitors is therefore unnecessary.

The Timing of FCC Action is Critical

- Sorenson's blocking consumer access to competitors requires immediate action.
- Consumers risk injury or death if unable to make emergency calls because of system congestion and the Sorenson block.
- Competing providers are steadily losing market share to the dominant provider and risk failure or degraded service.
- Action by the end of 2005 is necessary in light of the upcoming cost estimate filings as action on this item will substantially affect cost and demand estimates.